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EXAMINER
MERCHANT, SHAHID R

ART UNIT	PAPER NUMBER
3694	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/29/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	**Applicant(s)**
	09/890,892	HAYES ET AL.
Office Action Summary	**Examiner**	**Art Unit**	
	Shahid R. Merchant	3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-67* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-67* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *8/7/2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Priority

1.   Examiner has given consideration to applicant's 371 PCT/US01/05609 filed on

February 23, 2001 which claims benefit of Non-Provisional application 60/184,246 filed

on February 23, 2000. For examining purposes of this application, the effective filing

date will be February 23, 2000.

2.   Examiner has given consideration to prior art, U.S. Patent Application Publication

No. 2001/0042040 that was filed on March 8, 2001. U.S. Patent Application Publication

No. 2001/0042040 is a continuation-in-part of application 09546031 filed on April 10,

2000. For examining purposes of this application, the effective filing date for U.S.

Patent Application Publication No. 2001/0042040 will be April 10, 2000.

3.   Examiner has given consideration to prior art, U.S. Patent Application Publication

No. 2006/0218077 that was filed on June 13, 2006. U.S. Patent Application Publication

No. 2006/0218077 is a continuation-in-part of application 09/523,653 filed on March 10,

2000. Further, provisional application 60/152,119 was filed on September 2, 1999. For

examining purposes of this application, the effective filing date for U.S. Patent

Application Publication No. 2006/0218077 will be September 2, 1999.

Specification

4.   The specification is objected to as failing to provide proper antecedent basis for

the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction

of the following is required: Claim 21 references "two partner criteria" and "all partner

criteria" Clarification is required as to the definitions of these two terms.

Claim Objections

5.   Claim 55 objected to because of the following informalities: claim 55 is referring

back to itself. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

7.   Claim 61 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention.

8.   Claim 61 recites the limitation "the store performance information" in line 1 of

claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

9.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10.   Claims 1-8, 10, 16, 21, 22, 25-32, 46-51, 53-57, 59, 60 and 62 rejected under 35

U.S.C. 102(b) as being anticipated by Tozzoli et al., U.S. Patent No. 5,717,989 (see

attached PTO-892, Ref. A).

11.   As per claim 1, Tozzoli teaches a method of fulfilling a request on a trading

network comprised of a plurality of trading partners, comprising the steps of:

(a) sending a request to at least one trading partner, whereby the request is sent

only to trading partners chosen by a trading rule (see column 6, lines 45-47, 52-58,

column 7, lines 10-11, 13-24);

(b) receiving at least one response to the request from the at least one trading

partner (see column 6, lines 63-67 and column 7, lines 1-5, 26-33);

(c) ranking the at least one responses according to an evaluation rule (see column 6, lines 64-66 and column 7, lines 27-29); and

(d) accepting one of the at least one responses (see column 6, line 67 and column 7, lines 1, 32-33).

12.   As per claim 2, Tozzoli teaches the method of claim 1 as described above. Tozzoli further teaches wherein the request is a purchase request and the response is an offer to sell (see column 6, lines 31-34).

13.   As per claim 3, Tozzoli teaches the method of claim 1 as described above. Tozzoli further teaches wherein the request is a sale request and the response is an offer to buy (see column 6, lines 45-47 and column 7, lines 10-11).

14.   As per claim 4, Tozzoli teaches the method of claim 1 as described above. Tozzoli further teaches wherein the at least one response is automatically generated by a trading partner (see column 6, line 67 and column 7, lines 1-2, 29-30).

15.   As per claim 5, Tozzoli teaches the method of claim 1 as described above. Tozzoli further teaches wherein step (d) additionally comprises automatically accepting the highest ranked response (see column 6, lines 63-67 and column 7, lines 1-5).

16.   As per claim 6, Tozzoli teaches the method of claim 1 as described above. Tozzoli further teaches wherein step (d) additionally comprises presenting the ranked responses to a user, and accepting the user's choice of responses (see column 6, lines 63-67 and column 7, lines 1-5).

17.   As per claim 7, Tozzoli teaches the method of claim 1 as described above.

Tozzoli further teaches wherein the trading rule takes into account whether the partner

is a preferred trading partner (see column 6, lines 55-56 and column 7, lines 21-22).

18.   As per claim 8, Tozzoli teaches the method of claim 7 as described above.

Tozzoli further teaches wherein the determination of whether a trading partner is a

preferred trading partner is made by using a list of predetermined trading partners (see

column 6, lines 55-56 and column 7, lines 21-22).

19.   As per claim 10, Tozzoli teaches the method of claim 1 as described above.

Tozzoli further teaches wherein the trading rule takes into account whether the partner

primarily sells a certain brand of products (see column 7, lines 23-24).

20.   As per claim 16, Tozzoli teaches the method of claim 1 as described above.

Tozzoli further teaches wherein the evaluation rule is based on price (see column 7,

lines 1-5).

21.   As per claim 21, Tozzoli teaches the method of claim 1 as described above.

Tozzoli further teaches wherein the trading rule is based on at least two partner criteria,

and step (a) comprises sending a request to at least one trading partner, whereby the

request is only sent to trading partners that meet the rule based on all partner criteria

(see column 6, lines 52-60 and column 7, lines 18-26).

22.   As per claim 22, Tozzoli teaches the method of claim 1 as described above.

Tozzoli further teaches wherein the trading rule is comprise of at least two partner

criteria, and step (a) comprises sending a request to at least one trading partner,

whereby the request is sent to trading partners that meet the rule based on any of the at

least two partner criteria (see column 6, lines 52-60 and column 7, lines 18-26).

23.   As per claim 25, Tozzoli teaches the method of claim 1 as described above.

Tozzoli further teaches additionally comprising the step of: (e) receiving a confirmation

of the accepted response (see column 8, lines 13-21).

24.   As per claim 26, Tozzoli teaches a method for a node in a trading network to

respond to a request for a specified quantity of specified goods, comprising the steps of:

        (a) receiving a request (see column 6, lines 45-47 and column 7, lines 10-11);

        (b) determining whether to respond to the request according to a trading rule

(see column 6, lines 63-67 and column 7, lines 26-30);

        (c) generating a response according to said determination, wherein said

response includes at least one node preference (see column 7, lines 1-2, 28-30); and

        (d) responding to the request with the response generated in step (c) 9see

column 7, lines 2-5, 30-33).

25.   As per claim 27, Tozzoli teaches the method of claim 26 as described above.

Tozzoli further teaches wherein said request is a purchase request, and said response

is an offer to sell (see column 7, lines 2-5).

26.   As per claim 28, Tozzoli teaches the method of claim 26 as described above.

Tozzoli further teaches wherein said request is a sale request, and said response is an

offer to buy (see column 7, lines 30-33).

27.   As per claim 29, Tozzoli teaches the method of claim 26 as described above.

Tozzoli further teaches wherein the trading rule is based on having a specified number

of the specified goods remaining in inventory if the request is fulfilled (see column 14,

lines 22-39).

28.   As per claim 30, Tozzoli teaches the method of claim 26 as described above.

Tozzoli further teaches wherein the trading rule is based on the node making the

request being a preferred trading partner (see column 6, lines 55-57 and column 7, lines

21-23).

29.   As per claim 31, Tozzoli teaches the method of claim 26 as described above.

Tozzoli further teaches wherein the trading rule is based on the node making the

request having an acceptable credit record (see column 7, lines 48-53).

30.   As per claim 32, Tozzoli teaches the method of claim 26 as described above.

Tozzoli further teaches wherein the trading rule is based on the node making the

request having an acceptable payment history with the node responding to the request.

(see column 11, lines 59-67 and column 12, lines 1-4).

31.   As per claim 46, Tozzoli teaches a trading network comprising,

        wherein at least one node is a different type of entity than at least one other node

(see Figure 4, column 4, lines 50-67 and column 5, lines 1-10);

        wherein any node participating in the trading network can trade with any other

node in the trading network (see Figure 4, column 4, lines 50-67 and column 5, lines 1-

10);

        wherein each node has a set of private, individual trading rules that govern that

node's trading behavior (see column 5, lines 47-53, 61-67 and column 6, lines 1-7); and

wherein a first node may send a trading request to at least one second node according to the first node's trading rules, and the at least one second node determines whether and how to respond to the trading request according to the at least one second node's trading rules (see column 6, lines 45-47, 52-58 and column 7, lines 10-11, 13-24).

32.   As per claim 47, Tozzoli teaches the method of claim 46 as described above. Tozzoli further teaches wherein the types of entities include retailers, distributors and manufacturers (see column 4, lines 50-52). **Official Notice** is taken that it is well known in the art that a seller can be defined as retailers, distributors and manufacturers.

33.   As per claim 48, Tozzoli teaches the method of claim 46 as described above. Tozzoli further teaches wherein the trading network is integrated with an internal order processing system at each node (see Figure 5).

34.   As per claim 49, Tozzoli teaches the method of claim 46 as described above. Tozzoli further teaches wherein the internal order processing system is an ERP system (see abstract).

35.   As per claim 50, Tozzoli teaches the method of claim 46 as described above. Tozzoli further teaches wherein the trading request is a message sent from the first node to the second node

36.   As per claim 51, Tozzoli teaches the method of claim 50 as described above. Tozzoli further teaches wherein the trading request is a message sent from the first node to the second node over the Internet (see Figure 4).

37.   As per claim 53, Tozzoli teaches the method of claim 50 as described above.

Tozzoli further teaches wherein the message is encrypted (see column 5, lines 27-34).

38.   As per claim 54, Tozzoli teaches the method of claim 53 as described above.

Tozzoli further teaches wherein the encryption is done using public key cryptography

(see column 5, lines 27-34).

39.   As per claim 55, Tozzoli teaches the method of claim 55 as described above.

Tozzoli further teaches wherein X.509 digital signatures are used to verify the sending

node's identity (see column 5, lines 27-34).

40.   As per claim 56, Tozzoli teaches the method of claim 46 as described above.

Tozzoli further teaches additionally comprising a central repository (see column 4, line

67 and Figure 5, items 50 and 60).

41.   As per claim 57, Tozzoli teaches the method of claim 56 as described above.

Tozzoli further teaches wherein the plurality of nodes communicate with the central

repository through messages (see column 4, lines 63-67, column 5, lines 1-10, 21-22,

Figure 4 and Figure 5, items 70, 90A, 10, 40, 30 and 50).

42.   As per claim 59, Tozzoli teaches the method of claim 56 as described above.

Tozzoli further teaches wherein the central repository stores information about each of

the plurality of nodes in the trading network (see column 5, lines 47-60 and column 6,

lines 8-19).

43.   As per claim 60, Tozzoli teaches the method of claim 56 as described above.

Tozzoli further teaches wherein the central repository gathers and stores trading

performance information (see column 5, lines 61-67, column 6, lines 1-19, column 8,

lines 13-21 and column 10, lines 1-6 and column 16, lines 49-57).

44.   As per claim 62, Tozzoli teaches the method of claim 56 as described above.

Tozzoli further teaches wherein the central repository stores global rule parameters that

a node may use as its own individual rule parameters (see column 5, lines 61-67,

column 6, lines 1-19).

45.   Claims 35-40, 44, 45 and 67 rejected under 35 U.S.C. 102(e) as being

anticipated by Wellman, U.S. Patent No. 6,952,682 (see attached PTO-892, Ref. B).

46.   As per claim 35, Wellman teaches a method for a requesting node to determine

which of a plurality of offers to accept, comprising the steps of:

        (a) receiving a plurality of offers (see column 7, lines 66-67, Figure 5A, item 502

and Figure 5B, item 552);

        (b) ranking said offers using an evaluation rule (see column 7, line 67, column 8,

lines 1-5, Figure 5A, item 504 and Figure 5B, item 554); and

        (c) determining whether to accept an offer (see column 8, lines 6-22).

47.   As per claim 36, Wellman teaches the method of claim 35 as described above.

Wellman further teaches additionally comprising accepting an offer sending an

acceptance message to the trading partner that sent the accepted offer (see column 13,

lines 34-36).

48.   As per claim 37, Wellman teaches the method of claim 35 as described above.

Wellman further teaches wherein the offers are offers to sell (see Figure 5A, item 502

and Figure 5B, item 552).

49.   As per claim 38, Wellman teaches the method of claim 35 as described above.

Wellman further teaches wherein the offers are offers to buy (see Figure 5A, item 502

and Figure 5B, item 552).

50.   As per claim 39, Wellman teaches the method of claim 35 as described above.

51.   As per claim 40, Wellman teaches the method of claim 35 as described above.

Wellman further teaches wherein said evaluation rule includes ranking the offer with the

lowest price the highest (see column 6, lines 7-17).

52.   As per claim 44, Wellman teaches the method of claim 35 as described above.

Wellman further teaches wherein step (c) comprises displaying the ranked offers to a

user, and if the user selects an offer, accepting the offer the user selected (see column

9, lines 34-36).

53.   As per claim 45, Wellman teaches the method of claim 35 as described above.

Wellman further teaches wherein the ranking in step (c) is determined by using a

weighted sum of criteria used by the evaluation rule (see column 9, lines 40-45 and

abstract).

54.   As per claim 67, Wellman teaches a method for a requesting node to rank a

plurality of responses to a request sent by the requesting node on a trading network,

comprising the steps of:

        (a) receiving a plurality of responses (see column 7, lines 21-22);

(b) calculating a score for each of the plurality of responses using at least one criterion established by the requesting node (see column 7, lines 29-35); and

(c) ranking the responses according to the calculated score; wherein the trading network makes the calculation in step (b) and automatically accepts the highest ranked response (see column 7, lines 29-35 and column 13, lines 34-36).

Claim Rejections - 35 USC § 103

55.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

56.   Claims 9, 19, 33 and 34 rejected under 35 U.S.C. 103(a) as being unpatentable

over Tozzoli et al., U.S. Patent No. 5,717,989 (see attached PTO-892, Ref. A) in view of

Ojha et al., U.S. Patent No. 6,598,026 (see attached PTO-892, Ref. C).

57.   As per claim 9, Tozzoli teaches the method of claim 1 as described above.

Tozzoli does not explicitly teach wherein the trading rule is based on a minimum

preferred partner score.

Ojha teaches the method wherein the trading rule is based on a minimum

preferred partner score (see column 3, lines 22-43).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art

at the time the invention was made to combine the teachings of Tozzoli and Ojha to use

a trading rule based on a trading partners score as a metric to do or not do business

with that trading partner because the metric generates an indication of the traders

"reputation". A large positive value indicates a "good" reputation and a large negative

value indicates a "bad" reputation as taught by Ojha (see column 3, lines 22-43).

58.   As per claim 19, Tozzoli teaches the method of claim 1 as described above.

Tozzoli does not explicitly teach wherein the evaluation rule is based on brand.

Ojha teaches the method wherein the evaluation rule is based on brand (see

column 14, lines 23-32).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art

at the time the invention was made to combine the teachings of Tozzoli and Ojha to use

a trading rule based on a brand because it is another criteria or attribute that can be

used when selecting a trading partner or specific product to purchase as taught by Ojha

(see column 14, lines 23-32).

59.   As per claim 33, Tozzoli teaches the method of claim 26 as described above.

Tozzoli does not explicitly teach wherein the at least one preference includes

determining a markup specific to the node making the request.

Ojha teaches the method wherein the at least one preference includes

determining a markup specific to the node making the request (see column 16, lines 23-

33).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art

at the time the invention was made to combine the teachings of Tozzoli and Ojha to

determine a markup specific to a node because it gives the buyer the perception that

they are getting a deal as taught by Ojha (see column 14, lines 23-32).

60.   As per claim 34, Tozzoli teaches the method of claim 26 as described above.

Tozzoli does not explicitly teach wherein the at least one preference includes selling an

identified brand.

Ojha teaches the method wherein the at least one preference includes selling an

identified brand (see column 14, lines 23-32).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art

at the time the invention was made to combine the teachings of Tozzoli and Ojha to use

a trading rule based on a brand because it is another criteria or attribute that can be

used when selecting a trading partner or specific product to purchase as taught by Ojha

(see column 14, lines 23-32).

61.   Claim 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Tozzoli et

al., U.S. Patent No. 5,717,989 (see attached PTO-892, Ref. A) in view of Giovannoli,

U.S. Patent No. 5,758,328 (see attached PTO-892, Ref. D).

62.   As per claim 11, Tozzoli teaches the method of claim 1 as described above.

Tozzoli does not explicitly teach wherein the trading rule takes into account whether the

partner is located within a certain geographical area.

Giovannoli teaches wherein the trading rule takes into account whether the

partner is located within a certain geographical area (see column 5, line 12 and column

7, lines 10-12 and 22-25).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Tozzoli and Giovannoli and use trading rules to account for where trading partners are located geographically before awarding business because trading partners closer to shipping destination could provide the lowest shipping charges versus vendors further away as taught by Giovannoli (see column 7, lines 24-30).

63.   Claims 12-14 rejected under 35 U.S.C. 103(a) as being unpatentable over Tozzoli et al., U.S. Patent No. 5,717,989 (see attached PTO-892, Ref. A) in view of Giovannoli, U.S. Patent No. 5,758,328 (see attached PTO-892, Ref. D) and further in view of **Official Notice**.

64.   As per claim 12, Tozzoli and Giovannoli teach the method of claim 11 as described above. Tozzoli and Giovannoli do not explicitly teach wherein the geographical area is defined by a list of regions.

Examiner takes **Official Notice** to wherein the geographical area is defined by a list of regions. It is widely known in the art that a geographic area can be defined by a list of regions, list of counties, and/ or a point and radius around a point as evidenced in Elliott, U.S. Patent No. 6,446,053 (see column 4, lines 44-48).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Tozzoli, Giovannoli with **Official Notice** because Elliott teaches that a region can be defined "broadly as

geographic area as large as the "Pacific Northwest", or as narrowly as a radius of a few

miles surrounding the prospective building site," (see column 4, lines 44-47). Also,

Elliott teaches that a database can have fields for "state", "county", and/or "zip code"

which could be used in trading rules (see column 4, line 47-48).

65.   As per claim 13, Tozzoli, Giovannoli and **Official Notice** teach the method of

claim 12 as described above. Tozzoli and Giovannoli do not explicitly teach wherein the

list of regions is a list of counties.

Examiner takes **Official Notice** to wherein the list of regions is a list of counties.

It is widely known in the art that a geographic area can be defined by a list of regions,

list of counties, and/ or a point and radius around a point as evidenced in Elliott, U.S.

Patent No. 6,446,053 (see column 4, lines 44-48).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art

at the time the invention was made to combine the teachings of Tozzoli, Giovannoli with

Official Notice because Elliott teaches that a region can be defined "broadly as

geographic area as large as the "Pacific Northwest", or as narrowly as a radius of a few

miles surrounding the prospective building site," (see column 4, lines 44-47). Also,

Elliott teaches that a database can have fields for "state", "county", and/or "zip code"

which could be used in trading rules (see column 4, line 47-48).

66.   As per claim 14, Tozzoli and Giovannoli teach the method of claim 11 as

described above. Tozzoli and Giovannoli do not explicitly teach wherein the

geographical area is defined by a point and radius around the point.

        Examiner takes **Official Notice** to wherein the geographical area is defined by a

point and radius around the point. It is widely known in the art that a geographic area

can be defined by a list of regions, list of counties, and/ or a point and radius around a

point as evidenced in Elliott, U.S. Patent No. 6,446,053 (see column 4, lines 44-48).

        Therefore, it would be prima facie obvious to a person of ordinary skill in the art

at the time the invention was made to combine the teachings of Tozzoli, Giovannoli with

Official Notice because Elliott teaches that a region can be defined "broadly as

geographic area as large as the "Pacific Northwest", or as narrowly as a radius of a few

miles surrounding the prospective building site," (see column 4, lines 44-47). Also,

Elliott teaches that a database can have fields for "state", "county", and/or "zip code"

which could be used in trading rules (see column 4, line 47-48).

67.   Claim 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Tozzoli et

al., U.S. Patent No. 5,717,989 (see attached PTO-892, Ref. A) in view of Dietrich et al.,

U.S. Patent No. 6,526,392 (see attached PTO-892, Ref. E).

68.   As per claim 15, Tozzoli teaches the method of claim 1 as described above.

Tozzoli does not explicitly teach wherein the trading rule takes into account whether the

partner has an acceptable delivery record.

Dietrich teaches wherein the trading rule takes into account whether the partner

has an acceptable delivery record (see column 6, lines 16-18 and column 7, lines 7-14).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art

at the time the invention was made to combine the teachings of Tozzoli and Dietrich and

take into account the past history of a trader's delivery record because the trader profile

including past delivery records can help in pricing goods and services as taught by

Dietrich (see column 2, lines 45-48).

69.   Claim 17, 20, 23, 24 and 61 rejected under 35 U.S.C. 103(a) as being

unpatentable over Tozzoli et al., U.S. Patent No. 5,717,989 (see attached PTO-892,

Ref. A) in view Wellman, U.S. Patent No. 6,952,682 (see attached PTO-892, Ref. B).

70.   As per claim 17, Tozzoli teaches the method of claim 1 as described above.

Tozzoli does not explicitly teach wherein the evaluation rule is based on promised

delivery date.

Wellman teaches wherein the evaluation rule is based on promised delivery date

(see column 9, lines 25-45).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art

at the time the invention was made to combine the teachings of Tozzoli and Wellman to

use a promised delivery date as an evaluation rule, because it is another criteria or

attribute that can be used when selecting a trading partner as taught by Wellman (see

column 9, lines 31-34).

71.   As per claim 20, Tozzoli teaches the method of claim 1 as described above.

Tozzoli does not explicitly teach wherein the evaluation rule is comprised of at least two

criteria, and step (c) comprises using a weighted sum of the at least two criteria to rank

the offers.

Wellman teaches wherein the evaluation rule is comprised of at least two criteria,

and step (c) comprises using a weighted sum of the at least two criteria to rank the

offers (see abstract, column 10, lines 17-30 and Figures 3, 4 and 9).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art

at the time the invention was made to combine the teachings of Tozzoli and Wellman to

use a weighted sum of at least two criteria to rank the offers, because it allows for the

matching of bids and offers in combinations to maximize the overall surplus (highest bid

minus lowest offer) as taught by Wellman (see column 9, lines 18-22).

72.   As per claim 23, Tozzoli teaches the method of claim 1 as described above.

Tozzoli does not explicitly teach wherein step (c) comprises ranking the at least one

responses according to a first evaluation rule, and if no single response is ranked

highest, ranking the at least one responses again by a second evaluation rule.

Wellman teaches wherein step (c) comprises ranking the at least one responses

according to a first evaluation rule, and if no single response is ranked highest, ranking

the at least one responses again by a second evaluation rule (see column 9, lines 25-

34).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Tozzoli and Wellman to use a second evaluation rule to rank a responses if no single response is ranked highest, because it allows for combinations to maximize the overall surplus (highest bid minus lowest offer) or the best matching pair of bids between buyer and seller as taught by Wellman (see column 9, lines 18-22, and lines 50-53).

73.   As per claim 24, Tozzoli teaches the method of claim 23 as described above. Tozzoli does not explicitly teach additionally comprising ranking the at least one responses again by a third evaluation rule.

Wellman teaches additionally comprising ranking the at least one responses by a second evaluation rule (see column 9, lines 25-34). Although, Wellman does not teach specifically using a third evaluation rule, the function and method is the same as the using the second evaluation rule. The Examiner notes, information identifying type, characteristics, condition, etc. is construed as nonfunctional descriptive material, and is not functionally related to the substrate of the method. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see Cf. In re Gulack, 703 F.2d 1381 , 1385, 217 USPQ 401 , 404 (Fed. Cir. 1983), In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Tozzoli and Wellman to use a third evaluation rule to rank a responses, because it allows for combinations to

maximize the overall surplus (highest bid minus lowest offer) or the best matching pair

of bids between buyer and seller as taught by Wellman (see column 9, lines 18-22, and

lines 50-53).

74.   As per claim 61, Tozzoli teaches the method of claim 60 as described above.

Tozzoli does not explicitly teach wherein the stored performance information is used to

determine a participating node's scored performance.

Wellman teaches wherein the stored performance information is used to

determine a participating node's scored performance (see column 3, lines 65-67 and

column 4, lines 1-12).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art

at the time the invention was made to combine the teachings of Tozzoli and Wellman to

store information about a node's scored performance because it allows decisions to be

made using attributes besides price as taught by Wellman (see column 4, lines 3-8).

75.   Claim 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Tozzoli et

al., U.S. Patent No. 5,717,989 (see attached PTO-892, Ref. A) in view Tullous and

Munson, Organizational Purchasing Analysis for Sales Management, The Journal of

Personal Selling & Sales Management. New York: Spring 1992. Vol.12, Issue. 2; pg. 15.

(see attached PTO-892, Ref. U). Hereinafter "Organizational Purchasing Analysis."

76.   As per claim 18, Tozzoli teaches the method of claim 1 as described above.

Tozzoli does not explicitly teach wherein the evaluation rule is based on acceptable

delivery record.

Tullous and Munson teach wherein the evaluation rule is based on acceptable

delivery record (see abstract).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art

at the time the invention was made to combine the teachings of Tozzoli and Tullous and

Munson to use a delivery records (reliability) as an evaluation rule, because it is another

criteria or attribute that can be used when selecting a trading partner as taught by

Tullous and Munson (see abstract).

77.   Claim 39 rejected under 35 U.S.C. 103(a) as being unpatentable over Wellman,

U.S. Patent No. 6,952,682 (see attached PTO-892, Ref. B).

78.   As per claim 39, Wellman teaches the method of claim 35 as described above.

Wellman does not explicitly teach wherein said evaluation rule includes ranking an offer

with an identified brand higher than offers with any other brand.

Wellman teaches ranking said offers using an evaluation rule (see column 7, line

67, column 8, lines 1-5, Figure 5A, item 504 and Figure 5B, item 554). Although,

Wellman does not specifically teach ranking an offer with an identified brand higher than

offers with any other brand, the function and method is the same as ranking said offers

using an evaluation rule. The Examiner notes, information identifying type,

characteristics, condition, etc. is construed as nonfunctional descriptive material, and is not functionally related to the substrate of the method. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *Cf. In re Gulack, 703 F.2d 1381 , 1385, 217 USPQ 401 , 404 (Fed. Cir. 1983), In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).*

Therefore, it would be prima facie obvious to a person of ordinary skill in the art at the time the invention was made to modify the disclosure of Wellman to rank offers with an identified brand higher than offers with any other brand, because it allows for combinations to maximize the overall surplus (highest bid minus lowest offer) or the best matching pair of bids between buyer and seller as taught by Wellman (see column 9, lines 18-22, and lines 50-53).

79.   Claim 41 rejected under 35 U.S.C. 103(a) as being unpatentable over Wellman, U.S. Patent No. 6,952,682 (see attached PTO-892, Ref. B) in view of Walker et al., U.S. Application Publication 2006/0218077 (see attached PTO-892, Ref. F).

80.   As per claim 41, Wellman teaches the method of claim 35 as described above. Wellman does not explicitly teach wherein said evaluation rule includes setting a maximum number of offers to evaluate, and step (b) comprises ranking offers until the maximum number of offers has been received.

Walker teaches wherein said evaluation rule includes setting a maximum number of offers to evaluate, and step (b) comprises ranking offers until the maximum number of offers has been received (see paragraphs 39 and 41).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Wellman and Walker to limit the number of offers or bids during an auction, because it can influence a bidder's perception about the value of the item that is being auctioned as taught by Walker (see paragraph 4).

81.   Claim 42, 43, 63 and 66 rejected under 35 U.S.C. 103(a) as being unpatentable over Wellman, U.S. Patent No. 6,952,682 (see attached PTO-892, Ref. B) in view of Tozzoli et al., U.S. Patent No. 5,717,989 (see attached PTO-892, Ref. A).

82.   As per claim 42, Wellman teaches the method of claim 35 as described above. Wellman does not explicitly teach wherein said evaluation rule includes ranking only offers that complete an entire request.

Tozzoli teaches wherein said evaluation rule includes ranking only offers that complete an entire request (see column 6, lines 4-7).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Wellman and Tozzoli to rank only offers that complete an entire request because it could reduce a traders

exposure to a particular origin or destination country of the goods or services as taught by Tozzoli (see column 6, lines 1-7).

83.   As per claim 43, Wellman teaches the method of claim 35 as described above. Wellman does not explicitly teach wherein step (c) comprises determining the highest ranked offer and automatically accepting the highest ranked offer.

Tozzoli teaches wherein step (c) comprises determining the highest ranked offer and automatically accepting the highest ranked offer (see column 7, lines 1-2).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Wellman and Tozzoli to automatically accept the highest ranked offer because it will reduce expenses and delays by getting the seller paid in a timely manner as taught by Tozzoli (see column 3, lines 37-38 and abstract).

84.   As per claim 63, Wellman teaches a method for a node in a trading network to make a request to at least one other node on the trading network, comprising the steps of:

(a) calculating a score for each of a plurality of trading nodes on the trading network using at least one criterion established by the requesting node (see column 7, lines 29-52);

(b) for each of the plurality of trading nodes, determining if the calculated score meets a minimum threshold (see column 7, lines 29-52).

Wellman does not explicitly teach:

(c) sending a request from a requesting node to any trading nodes that have a

minimum score; wherein the trading network makes the determination in step (b) and

automatically sends the requests to the trading nodes with a minimum score.

Tozzoli teaches:

(c) sending a request from a requesting node to any trading nodes that have a

minimum score; wherein the trading network makes the determination in step (b) and

automatically sends the requests to the trading nodes with a minimum score (see

column 6, lines 60-67, column 7, lines 1-19, 55-58). Tozzoli uses pre-stored lists of

buyers with special characteristics, like credit ratings (column 5, line 64) or other criteria

like certain documentary certification (column 6, line 11).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art

at the time the invention was made to combine the teachings of Wellman and Tozzoli to

automatically send requests out to trading nodes with minimum scores because it will

allow the seller to target buyers that meet certain requirements or criteria's as taught by

Tozzoli (see column 6, line 56).

85.   As per claim 66, Wellman and Tozzoli teach the method of claim 63 as described

above. Wellman further teaches wherein if no calculated scores meet the minimum

threshold, the minimum threshold is lowered, and the scores are recalculated (see

column 8, lines 42-45).

86.   Claim 52 and 58 rejected under 35 U.S.C. 103(a) as being unpatentable over

Tozzoli et al., U.S. Patent No. 5,717,989 (see attached PTO-892, Ref. A) in view of

Meltzer et al., U.S. Patent No. 6,125,391 (see attached PTO-892, Ref. G).

87.   As per claim 52, Tozzoli teaches the method of claim 50 as described above.

Tozzoli does not explicitly teach wherein the message is in XML format.

Meltzer teaches wherein the message is in XML format (see abstract).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art

at the time the invention was made to combine the teachings of Tozzoli and Meltzer to

provide messages in XML based format because they can easily be understood in the

business world as taught by Meltzer (see abstract). **Official Notice** is taken that XML

(Extensible Markup Language) is a common general purpose markup language that

supports a wide variety of applications. It's primary purpose is to facilitate the sharing of

data across different information systems, particularly systems connected to the

Internet.

88.   As per claim 58, Tozzoli teaches the method of claim 57 as described above.

Tozzoli does not explicitly teach wherein a message between a node and the central

repository is in XML format.

Meltzer teaches wherein a message between a node and the central repository is

in XML format.

Therefore, it would be prima facie obvious to a person of ordinary skill in the art

at the time the invention was made to combine the teachings of Tozzoli and Meltzer to

provide messages in XML based format because they can easily be understood in the

business world as taught by Meltzer (see abstract). **Official Notice** is taken that XML

(Extensible Markup Language) is a common general purpose markup language that

supports a wide variety of applications. It's primary purpose is to facilitate the sharing of

data across different information systems, particularly systems connected to the

Internet.

89.   Claim 64 and 65 rejected under 35 U.S.C. 103(a) as being unpatentable over

Wellman, U.S. Patent No. 6,952,682 (see attached PTO-892, Ref. B) in view of Bukow,

U.S. Application Publication 2002/0026338 (see attached PTO-892, Ref. H).

90.   As per claim 64, Wellman teaches the method of claim 63 as described above.

Wellman does not explicitly teach wherein the calculation in step (a) is made by

calculating a weighted average.

Bukow teaches wherein the calculation in step (a) is made by calculating a weighted average (see paragraphs 23, 32 and 38).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Wellman and Bukow to calculate a weighted average because it allows one to give the oldest information the least amount of weight when making a decision as taught by Bukow (see paragraph 34).

91.   As per claim 65, Wellman teaches the method of claim 64 as described above. Wellman does not explicitly teach wherein the weighted average is calculated using a score for each of the at least one criteria, and a weight for each of the at least one criteria.

Bukow teaches wherein the weighted average is calculated using a score for each of the at least one criteria, and a weight for each of the at least one criteria (see paragraphs 23, 32 and 38).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Wellman and Bukow to calculate a weighted average for a criteria because it allows one to give the oldest information for the criteria the least amount of weight when making a decision as taught by Bukow (see paragraph 34).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shahid R. Merchant whose telephone number is 571-270-1360. The examiner can normally be reached on First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Nolan can be reached on 571-272-0847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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